

**Loudoun County, Virginia**

zorc@loudoun.gov

Zoning Ordinance Review Committee

Robert Gordon—Chair, Patrick Quante—Vice Chair, Ava Abramowitz, Brian Cullen, Sarah Howard-O'Brien, Franklin Hyatt, Stevens Miller, Joe Paciulli, William Soltesz, John Whitmore

February 10, 2006

Mr. Scott K. York, Chairman
Loudoun County Board of Supervisors
P.O. Box 7000
One Harrison Street, SE
Leesburg VA 20175

Re: Final Report-Zoning Ordinance Review Committee

Dear Scott:

Attached is the final report of the Zoning Ordinance Review Committee, which the Board of Supervisors appointed in December, 2004 to conduct a technical review of the Loudoun County Zoning Ordinance. The text of our recommendations is not included with this report, because the sheer volume of changes to the 900 page Zoning Ordinance precludes delivering hard copies. All of our revisions are available in a "red-lined" version of the ordinance, available to the Board through staff, and available to the general public on line, with this report, at <http://inetdocs.loudoun.gov/b&d/docs/zoningadministr/zoningordinance/finalredlinedra/index.htm>

During its review, the ZORC evaluated approximately 90 written comments received from staff, 300 pages of written comments received from 80 members of the general public, and heard public comment from numerous speakers. The ZORC also remained receptive to additional comments received over the course of the year. The ZORC met weekly throughout 2005 at meetings open to the public. As you know, we made recommendations to the AR-1 and AR-2 district regulations, and related rural performance standards, in our report of September 8, 2005.

As the Chairman and Vice Chairman of the ZORC, we have been consistently impressed and gratified by the talent and work ethic of the members of the Zoning Ordinance Review Committee. We believe that the Board of Supervisors, and the general public, will be impressed with the result of our work because we have made a deliberate effort to clean up many long-standing sources of aggravation, confusion, and "brain damage" for landowners, real estate professionals, county staff, and elected or appointed officials.

These recommendations are summarized in the attached report, which also contains some recommendations for changes to the uses, densities, and standards on a number of commercial zoning districts. The substantive changes recommended to the commercial districts go beyond "technical revisions" in some respect, but we believe these suggestions will have the full support

of the County's Department of Economic Development, as well as the support of the business community.

We understand that the term of the ZORC has been extended to December 31, 2006, in order to enable the ZORC to be available for consultation with staff, the Planning Commission and the Board of Supervisors. Now that we have concluded this final report, the ZORC has no further scheduled meetings but we are available to resume meetings or to be available on a more informal basis, to help you complete this important work.

Please let us know if you or any other Board Member or County official has any questions regarding any of our recommendations.

Sincerely yours,

LOUDOUN COUNTY ZONING ORDINANCE REVIEW COMMITTEE

By: 
Robert M. Gordon, Chairman

By: 
Pat Quante, Vice-Chairman



Loudoun County, Virginia

zorc@loudoun.gov

Zoning Ordinance Review Committee

Robert Gordon—Chair, Patrick Quante—Vice Chair, Ava Abramowitz, Brian Cullen, Sarah Howard-O'Brien, Franklin Hyatt, Stevens Miller, Joe Paciulli, William Soltesz, John Whitmore

LOUDOUN COUNTY ZONING ORDINANCE REVIEW COMMITTEE

FINAL REPORT TO BOARD OF SUPERVISORS

February 10, 2006

The Loudoun County Zoning Ordinance Review Committee ("ZORC") was established by the Board of Supervisors in December, 2004, to conduct a technical review of the Loudoun County Zoning Ordinance and to (i) make revisions to the Zoning Ordinance required as a result of judicial decisions in litigation challenging certain provisions of the January 6, 2003 amendments to the Zoning Ordinance; (ii) review recommendations from staff for clarification and correction of the Zoning Ordinance based on several years of administration of the current Zoning Ordinance; (iii) solicit and obtain public input, and (iv) recommend revisions to the Loudoun County Planning Commission and Board of Supervisors based on such review and deliberations. Pursuant to Board direction, the ZORC held a public input session on February 3, 2005, and solicited public input through February 28, 2005.

During its review, the ZORC evaluated approximately 90 written comments received from staff, 300 pages of written comments received from 80 members of the general public, and heard public comment from numerous speakers. The ZORC also remained receptive to additional comments received over the course of the year. The ZORC met weekly throughout 2005 at meetings open to the public.

During the course of the ZORC review process, on March 3, 2005, the Supreme Court of Virginia, in Gas-Mart Corporation, et al. v. Board of Supervisors of Loudoun County, struck down the AR-1 and AR-2 provisions of the Zoning Ordinance. Thereafter, the Board of Supervisors requested the ZORC's input on certain matters relative to rural zoning, and the ZORC, after meetings and deliberations in July and August, 2005, submitted certain recommendations to the Board on AR-1 and AR-2 Zoning on September 8, 2005.

After submitting its recommendations for rural zoning to the Board of Supervisors, the ZORC returned to its "technical review" tasks. We have completed a package of suggested Zoning Ordinance revisions relative to the commercial zoning districts, selected suburban districts, definitions, and the like. Our recommendations are submitted in the form of detailed markups to the Revised 1993 Zoning Ordinance, Current Redline Version February 10, 2006. We request that this report, and the redlined changes recommended by ZORC, be placed on an appropriate web site for ready access by the public.

This report provides explanatory background of the ZORC's recommendations. Not every revision in the draft text is discussed, there are some revisions that in our judgment are so technical and minor, that they don't merit discussion here, but representatives of the ZORC will be available to the Board, Planning Commission, and staff, to explain the thinking behind any revision.

ARTICLE I

A. Applicability to Route 28 Tax District. The zoning of the Route 28 Tax District was frozen by the Virginia legislature in the early 1990's to prevent potential downzoning of these properties, which pay an additional real estate tax surcharge to retire debt on improvements to Route 28. This means that a number of parcels in the Route 28 Tax District remain subject to the antiquated 1972 Zoning Ordinance. Each time the Zoning Ordinance is reviewed, suggestions are made to come up with a flexible way for landowners to "opt in" to the updated Zoning Ordinance, but there are technical legal difficulties to changing zoning administratively.

Recommendation: Amend Section 1-103(N)(2) to allow opt in to the revised ordinance for a period of one year from the effective date of these revisions. We also recommend that the Board initiate a process of allowing conversions from the 1972 ordinance to the current ordinance by letter requests that would be batched by the County once or twice a year at no cost to landowners, and adopted after the legally required hearings. These could be processed on the Board's consent agenda.

B. Setbacks from Reservations of Right of Way and from Planned Interchanges. Technical problems have been identified over the years with determining the proper setbacks from a reservation for a future right of way, and in determining setbacks from interchanges. For example, if a landowner reserves a right of way for a future 120' wide road and due to engineering uncertainty about where the road will eventually be built the reservation area is 250' wide, how do you determine the proper building setback? Also, where the main line of an arterial road such as Route 28, Route 7, Route 50 or the Greenway is subject to a substantial setback, such as 200 feet, how do you measure the setback at the on ramps and off ramps of present or future interchanges?

Recommendation: Amend Section 1-205(J) to measure the setback for a reservation of right of way from the center line of the reservation plus one half the planned right of way, with a minimum setback of 35 feet. Revise Section 5-900(A)(12) to add a uniform 75 foot building setback and 35 foot parking setback from the ramps of interchanges.

C. Boundary Line Adjustments. A boundary line adjustment is, or should be, a simple process in which the lot lines between two or more parcels are adjusted to change the configuration of the lots in whatever way is desired by the landowner(s). The essence of a boundary line adjustment is that no new developable lot or parcel is created. Unfortunately, in 2003 revisions made to Section 1-404(C), together with the dramatic increase in minimum lot size in rural areas (where most BLA's take place) made boundary line adjustments extremely difficult or impossible, because almost every BLA

involved increasing the degree of nonconformity of an existing lot. This has led to complaints and intense landowner dissatisfaction.

Recommendation. Simplify boundary line adjustments to provide that they are allowed subject only to the limitation that the resulting lots meet the minimum lot area in effect at the time the lots were originally created. We note that in the rural areas, the suggested two acre minimum lot size for lots in the AR-1 and AR-2 zoning district will reduce the number of nonconforming lot issues.

D. Rural Commercial District. The RC or Rural Commercial District. Section 2-900, is a legacy district for properties formerly zoned C-1 in the 1972 Zoning Ordinance, located in and around older towns in Loudoun such as Hamilton, Round Hill, Hillsboro, and Old Ashburn. At the request of the owner of the RC zoned Loudoun Milling property located off of Route 704 east of Hamilton, we looked at certain changes that would give Loudoun Milling the flexibility to continue its rural economy use while adapting to changing conditions.

Recommendation: Make mill, feed and grain facility and training facility by right in the RC District, increase the size of permitted single uses from 10,000 to 15,000 square feet. Exempt agricultural uses, mill, feed and grain, farm supplies, farm market, and farm machinery sales and service from this 15,000 limit.

ARTICLE 2-RURAL DISTRICTS The ZORC's September 8, 2005 Report included recommendations relative to the AR-1 and AR-2 zoning districts. This report refers to related and consistency changes in the A-3, A-10, CR and related districts, and includes some other changes that impact rural areas, such as flood plain, boundary line provisions, as discussed below. We suggest that when the Board of Supervisors has completed its work on rural districts and is ready to take up these recommendations, a review be conducted by staff to determine whether any revisions to these recommendations, or to the enacted zoning ordinance changes, would be required for consistency.

ARTICLE 3 SUBURBAN DISTRICT REGULATIONS

A. R District Building Height and Coverage Ratio. Based on recommendations from the building industry relative to the height of buildings, particularly townhouses, we examined whether an adjustment to building height is appropriate. It appears that an increasing number of townhouses are being built with nine foot ceilings and with front loaded, ground level garages, providing some much-needed off street parking in townhouse districts. These are difficult to accommodate with a 35' maximum building height. We recommend increasing the maximum height for townhouses from 35' to 45' with a maximum building height for single family detached homes of 40 feet and an increase to 45 feet in the base height of multifamily structures.

With respect to the lot coverage ratio, the ZORC concluded that a modest increase in lot coverage ratio to a uniform 25% in the R districts would accommodate somewhat denser suburban development while solving a technical lot coverage problem created by the

County initiated rezoning of an adult housing project in Sterling from CR-1 to R-1 zoning.

Recommendation: Change the building heights in Section 3-108, 109, 110 to 40 feet, and the lot coverage ratio to 25%. See also 3-208 to 3-210; 3-308 to 3-310. The ZORC made a corresponding recommendation to increase the base building height of multifamily structures to 45 feet because it made no sense to allow 45 foot high townhouses while leaving apartment buildings at 35 feet, see 3-607 for example.

B. Development Setback and Access from Major Roads. The ZORC made a comprehensive reexamination of setbacks, front, side and rear yard requirements, and access from major roads in the commercial and suburban districts. In the current zoning ordinance each district has its yard requirements, and in addition has provisions for setbacks from so called major collector or arterial roads, as well as limitations on access to individual lots from such roads. In addition, Section 5-900 contained additional setbacks and limitations from certain major roads such as Route 7, Route 28, Route 50, and the like. The combination of all of these seemed confusing and at times inconsistent.

Recommendation: Revise each district so that the setbacks from major roads are all contained in Section 5-900. See Section 3-111 of the R-1 District regulations, for example. Section 5-900 now contains a comprehensive set of setback standards, which will be reviewed in more detail below.

C. Suburban Districts-Length/Width Ratio. The ZORC considered the elimination of the "length/width" ratio for lots, and decided that although the complete elimination of length/width ratios is not warranted, it would be appropriate to have a more flexible length/width ratio, and have uniform a length/width ratio for all districts.

Recommendation: Change length width ratio in all R districts from 3.0:1 or 4.0:1 to 5:1.

D. Townhouse Provisions: The ZORC received a number of comments from individuals and building industry representatives relative to single family attached structures (townhouses). Some of these suggestions were not new, in that the industry and the County have tried for a number of years to accommodate design flexibility for "back to back" townhouses, "quads" and other evolving designs intended to provide both creative design and land affordability to this housing sector. The ZORC also heard comments from a number of individuals, and from staff, about the relationship between the rear yard setbacks in townhouse districts and the impact on the ability to put in a deck. Although in a perfect world one might think it beneficial to have both the density of townhouses and large back yards with lots of grass, the reality is that with the cost of land and the desire of existing townhouse owners to put in decks (open or enclosed) there is increasing pressure on the county to allow more design flexibility and to reduce rear yard sizes.

Recommendation: Using the R-8 zoning district as an example, reduce rear yard from 25' to 15,' and eliminate requirement for rear yard along common walls (to allow "back to back" units); increase lot coverage for attached units from 50% to 75%, increase

building height for townhouses to 45 feet maximum. See 3-506, 3-508. Similar recommendations are contained in the R-16 zoning district, See 3-606, 3-607.

E. Maximum Number of Multifamily Units Per Building. In the R-24 multifamily residential zoning district, which is the highest density apartment district, Section 3-707(C) contains a standard that no one structure shall contain more than 64 multifamily dwelling units. As far as ZORC could determine, no one remembers how this provision came to be in the ordinance, or why it is there.

Recommendation: Eliminate 3-707(C) and let the market determine the maximum number of apartment or condominium units in a multifamily structure.

MISCELLANEOUS REVISIONS INVOLVING VARIOUS ZONING DISTRICTS

Solid Waste Management Provisions The ZORC received information from staff regarding the need to update the zoning ordinance to make certain provisions consistent with state law and Codified Ordinance provisions relative to solid waste management. We reviewed these matters with Mr. Weber's office and made a number of recommendations throughout the Ordinance.

Churches-The ZORC heard from several representatives on behalf of churches, pointing out that the Floor Area Ratio and setback requirements contained in Section 5-639 were restrictive to the point of making it impossible to construct a church, and providing information regarding standards in other jurisdictions. On review, it did appear that the FAR limit of 0.02 and the 175 foot or 225 foot setback from all lot requirements were excessive, both in relation to what is required in adjacent jurisdictions, and when compared to other uses in Loudoun County (i.e., a 50' setback for a Recycling center from residential land, and a 225' setback for a church). The ZORC made suggested revisions to Section 5-639 to address these concerns.

Office Uses in Commercial (Shopping Center) Districts

Current Zoning Ordinance language is inconsistent as to the square footage of office uses allowed in commercial centers. Also medical and dental office uses were lumped with other office uses in regional centers but not in other centers.

Recommendation: The draft revisions recommend putting all types of office uses in the same category, and allow office uses by right up to 20% of the gross square footage of the center, and by special exception in excess of 20% of the square footage of the center.

Additional Uses in Commercial (Shopping Center) Districts

Two uses not previously allowed in the CC districts are a "training center" where business, professional, or technical training or certification can take place either as a principal use or accessory to another use, and an "interactive science & technology center" allowing interactive exhibits on a scheduled or unscheduled basis, are

recommended for the PD-CC Districts. Definitions have been added for these uses. The ZORC also recommends that motorcycle or ATV sales, rental, repair, and associated services be allowed in the Small Regional Center (PD-CC-SRC) district, and that "day care center for pets" and indoor kennels be allowed by special exception. All of these revisions are in response to letters and input from the public.

REVISIONS TO COMMERCIAL DISTRICTS

The ZORC is making a number of substantive recommendations to the commercial districts (PD-IP, PD-OP, PD-GI, PD-RDP, MR-HI) in an effort to address concerns identified by staff, the public and ZORC members. In this review, we were assisted and heavily influenced by the thinking and recommendation of Department of Economic Development Staff, particularly Robyn Bailey, who deal with prospective users, and their realtors, on a day to day basis.

Some of these, in fairness, can be characterized as going beyond "technical corrections," so some explanation is in order.

First, these districts approach land use based on the traditional "Euclidian Zoning" separation of uses into neat categories, such as office, light industrial, heavy industrial, research and development. In practice, few of the businesses now growing or locating in Loudoun County can be so neatly categorized. Loudoun has less manufacturing than it used to, and without rail access or interstate highways we are unlikely to develop an extensive manufacturing base. Many of the businesses locating in Loudoun combine elements of service industries, light assembly, and research and development.

Second, the commercial districts have a combination of requirements relating to yards, setbacks, buffers, landscaping, and parking, that have been criticized as (i) making it difficult to have shared access from local roads, or inter parcel access due to the requirements for side yards and landscaping; (ii) driving up the cost of industrial buildings to no purpose by requiring excessive landscaping and buffering between like uses; (iii) confusing from a process point of view because the terms "yards" and "setbacks" overlap and because of subjective language that is impossible to enforce literally (parking areas "shall not be visible from adjacent public roads").

Third, the County is under pressure to convert land zoned for office or industrial uses, to residential or active adult uses, or to allow uses such as churches or not for profit facilities. This has reduced the amount of land available for commercial uses. In the course of its discussions, the ZORC concluded that a comprehensive review of the commercial districts might help make these districts more attractive for long term investment, reducing pressure on conversions.

During this review, the ZORC discussed the critical issues of density (expressed as floor area ratio), height, and percentage of lot occupancy and related lot coverage criteria. The 1972 and 1993 zoning ordinances basically envisioned eastern Loudoun County as characterized by low rise, one and two story office development, with surface parking.

The ZORC respectfully suggests that this may not be the model we are seeking for the next 20 years, that it is time to look at higher densities and more height for commercial development in eastern Loudoun County.

Another way to look at the more substantive recommendations in the commercial districts is that we are deliberately working to make these commercial districts more alike in allowed uses and densities. It is easier to make these changes than to try and remap all these areas, and since these zoning changes generally remove impediments to development and increase density, we do not expect landowners to object.

COMMERCIAL DISTRICT RECOMMENDATIONS:

PD-OP Planned Development-Office Park

Some of the revisions to this District are highly technical and do not merit detailed discussion, such as adding a "Training Facility" use and combining the Hotel and Motel Uses. Other changes are conforming to changes made elsewhere, such as the elimination of the "setbacks from major roads" provision by reference to Section 5-900.

Other changes are more substantive.

Recommendation: Uniform building setback of 35 feet and parking setback of 25 feet from adjacent roads (4-305 (B)). Elimination of highly subjective "where such uses are visible from any road" language in 4-305(B). In 4-305(B)(4), we recommend that the yard between buildings on adjacent lots be uniformly specified at 30 feet, without regard to separate buffer yard requirements, and we recommend elimination of the requirement that driveways, parking, and covered areas cannot be closer than five feet from yard lines, because this requirement prevents shared access easements or inter-parcel access.

Highly substantive changes include:

- Increase allowed building height to 45 feet and cut the angle of bulk plane setback from 1:2 to 1:1, allowing higher buildings closer to the road.
- Increase FAR from .40 with density averaging to .6 by right and up to 1.0 FAR by special exception.

PD-RDP Planned Development-Research and Development Park

This District was created in the late 1980's in connection with the University Center project, and currently comprises a number of commercial projects on Route 7, Route 28, and the Dulles Greenway. A problem identified by Economic Development staff over the years is the requirement in 4-407(E) that a minimum of 30% be devoted to research and development uses, and that a minimum of 10% be devoted to educational uses. This section also states that at no time during development shall the total space of other types of development exceed the total of R&D and educational uses.

These standards appear impractical of achievement, subjective to measure, and unrealistic in terms of the convergence of various types of uses as set forth above, therefore we recommend deletion of these standards.

Other recommendations are similar to the PD-OP above, as follows:

Uniform building setback of 35 feet and parking setback of 25 feet from adjacent roads (4-405 (B)). Elimination of highly subjective "where such uses are visible from any road" language in 4-405(B)(2). In 4-405(B)(4), we recommend that the yard between buildings on adjacent lots be uniformly specified at 30 feet, without regard to separate buffer yard requirements, and we recommend elimination of the requirement that driveways, parking, and covered areas cannot be closer than five feet from yard lines, because this requirement prevents shared access easements or inter-parcel access.

Highly substantive changes include:

- Increase allowed building height to 45 feet and cut the angle of bulk plane setback from 1:2 to 1:1, allowing higher buildings closer to the road.
- Increase FAR from .40 with density averaging to .6 by right and up to 1.0 FAR by special exception.

PD-IP Planned Development-Industrial Park

The PD-IP District was for many years the most ubiquitous commercially zoned land, but years of development, conversion to residential or active adult uses, and conversion to quasi-retail type uses, have significantly reduced the amount of available PD-IP land. PD-IP was originally a purely industrial/manufacturing use district, except if a special exception was obtained for office uses. A special exception process was also developed for "flex-industrial" uses, which basically allowed up to 49% office under certain conditions. The flex industrial use was made by right in the 1993 revisions to the Zoning Ordinance.

The ZORC now recommends that office uses be allowed by right in the PD-IP zoning district.

Other PD-IP District recommendations:

- Clarify that the by right church, synagogue and temple use includes mosque, and clarify that private school, child and adult day care, and associated uses are considered part of the church use. The requirement for a special exception in 4-504(FF) for a school, private, accessory to a church, has been removed.
- Same basic recommendations as PD-OP and PD-RDP above.
- FAR by right .40, up to .60 by Special Exception.
- A deliberate effort was made to make it crystal clear in 4-507(J) that a business in the commercially zoned districts can park two axle autos, pickup trucks or service vans in the parking lot of that business overnight, as a use accessory to the business. This is an issue that has irritated many business owners over the

years (being cited for parking their own service vans in their own parking lots), and the rationale for the restriction appears insupportable.

PD-GI Planned Development-General Industrial

We recommend fewer changes to this "heavy industrial" district. For example, we recommend leaving the FAR at .40.

PD-SA and PD-TC Districts. The ZORC did not make substantive recommendations for these commercial districts because, to the best of our knowledge, there is no land zoned to these districts, and no such rezonings in process or to anyone's knowledge, in the planning stage. The changes recommended to these districts conform to revisions for other commercial zoning districts.

PD-RV The ZORC made recommendations to PD-RV to address some problems identified in the administration of this district. The language includes some recommendations made by staff several years ago but not yet implemented.

The ZORC made no recommendations to the PD-TREC Planned Development Transit Related Urban Center, or the PD-TRC Planned Development-Transit Related Center, other than some changes to heights for consistency. We know of no applications pending for PD-TREC or PD-TRC, received no comments from the public, and note that these districts are a higher intensity planning exercise in which modifications could be approved to the ordinance. The changes recommended to these districts conform to revisions for other commercial zoning districts.

The proposed revisions include conforming changes to the standards in the PD-H District regulations that are directly applicable to commercial development in planned communities. This is to ensure the necessary consistency since the PD-H regulations require administration of commercially zoned parcels under the comparable commercial district regulations.

OTHER SELECTED RECOMMENDATIONS

Outdoor Storage, Vehicles. ZORC members heard from the staff, the public and directly from a number of Supervisors, that it is extremely difficult to find a place to store trucks, buses, recreational vehicles, boats, and the like. ZORC recommends that the "Outdoor Storage-Vehicles" use, with a deliberately expansive definition of the types of vehicles that can be stored, be allowed by right in the MR-HI (Mineral Resource-Heavy Industry) District, which is the County's heaviest industrial district, and by special exception in the PD-GI Zoning District.

FOD-Floodplain Overlay District. The Floodplain Overlay District was in effect under the 1972 and 1993 Zoning Ordinances, but was struck from the 2003 amendments in favor

of the RSCOD (River and Stream Corridor Overlay District). The RSCOD, which imposed significantly greater restrictions on floodplains, and extended those provisions to areas not previously regulated, was struck down by the Virginia Supreme Court. It was considered a key part of the ZORC's task to review the 1993 ordinance FOD provisions, update them as necessary, and enact a new Floodplain Overlay District to replace in a formal way (as opposed to by the effect of court order) the RSCOD provisions.

Recommendation: Adopt a revised Floodplain Overlay District. The ZORC recommends moving certain provisions, containing highly technical provisions for road crossings and flood plain alterations, to the Facilities Standards Manual. An important recommendation is set forth in 4-1505(B), where the ZORC endeavored to make it very clear that the FOD only applies to those areas that actually meet the definition of floodplain, taking into consideration such engineering information as may be provided, and that the final location of the floodplain, based on this information, could be determined by the Zoning Administrator. Previously, the FOD overlay district line was set on the zoning map, and the interpretation was that even if you provide information that shows the floodplain line to be ten, 20, or 50 feet away from the area where it was mapped, you could only adjust the floodplain line for zoning purposes by going through a rezoning process. The suggested correction should correct this problem.

For the reasons outlined by the ZORC to the Board of Supervisors during consideration of the AR1 and AR-2 District regulations, the ZORC recommends allowing density credit for major flood plain.

TOWN OF PURCELLVILLE. The ZORC considered and implemented, certain revisions, i.e., MDOD 4-1603(C) that are expressly intended to remove obstacles to the repair and expansion by the Town of Purcellville of its municipal water supply system.

VILLAGE CONSERVATION OVERLAY DISTRICT. This District, imposed as an overlay district in and around traditional villages, contains standards that have proved to be unworkable. Specifically the "average front yard" and "building height" provisions, by tying the yard and height of a proposed building to buildings within 150 feet on each side of the parcel being developed, imposes on a landowner a whimsical, accidental limitation on where he can place the house and how high it can be, tied to what happens to have been built nearby. Also, sidewalks are required to be placed on one side of the street, and yet many of the traditional villages lack sidewalks or don't have any sidewalks in areas that tie in to areas where new improvements are being made.

Recommendation: Revise Section 4-2104 to eliminate these regulatory problems.

ADDITIONAL REGULATIONS, Section 5-200, Permitted Structures in Required Yards. For a number of years the County has wrestled with problems created when landowners buy a home and want to put in a deck, only to find that they cannot due to a side or rear yard requirement, setback, or buffer yard requirement. The ZORC recommends that changes be made to allow decks to be constructed with fewer constraints.

Recommendation: Revise 5-200(B) to allow decks within five feet of a rear or side yard, setback, or buffer yard, and with respect to townhouses, decks could be built out to the side interior lot line.

CONSTRUCTION TRAILERS AND MODEL HOMES. For a number of years the staff and the building industry have wrestled with conflicts between the need of the building industry to set up a model home and/or sales trailer on a residential construction site, and zoning regulations prohibiting or limiting these uses. The bottom line for ZORC, after extensive discussion, is that we have a hard time seeing what public health, safety or welfare interest is served, by prohibiting sales trailers or model homes in new residential subdivisions (on the theory, we gather, that they are some type of commercial use) or prohibiting them from being constructed or installed until after the record plat is recorded. In sum the ZORC concluded that the amount of staff and applicant time and energy, and the gyrations that everyone has had to go through on these issues over the past few years, are a waste of everyone's time.

Recommendation: Revise Section 5-500 to allow construction or sales trailers to be installed during construction of a project, starting at the preliminary subdivision or preliminary site plan approval stage, provided lot requirements and permits for the lot where the temporary use is to be located have been met. Detailed recommendations are provided for temporary dwelling unit, sales and leasing trailer, and model home. **NOTE:** These recommendations were transmitted to the Board of Supervisors on September 8, 2005, and may be enacted as a part of the rural zoning changes.

CLUSTER REGULATIONS IN TRANSITION DISTRICTS. The ZORC heard comment that suggested that clustering was, whether by intention or inadvertently, prohibited in the Transition (TR) Districts. We made revisions that conformed this district to the approach recommended by the ZORC for rural districts in our report of September 8, 2005.

Recommendation: Revise Section 5-701 to be consistent with the approach allowed for rural cluster subdivisions (**NOTE:** ZORC's recommendations for rural cluster subdivisions were contained in Section 5-703, but the staff approach is to move the rural clustering provisions to the rural district (AR-1 and AR-2) regulations, to which ZORC has no objection. As a result, the precise formatting of these recommendations may change after the Board completes its review and enactment of rural district regulations.

LIMITATIONS ON VEHICLES IN RESIDENTIAL DISTRICTS.

Section 5-800 contains a prohibition on parking or storing "major recreational equipment" in residential areas. We note that most planned unit development subdivisions have similar provisions in their protective covenants. However, the ZORC heard comment that the prohibition should be expanded to cover containers designed for the transportation or storage of major recreational equipment.

Recommendation: Revise Section 5-800 to close this loophole, so that neither major recreational equipment nor the containers in which they are stored or transported may be parked in residential neighborhoods for more than 24 hours at a time.

SECTION 5-900 SETBACKS FROM MAJOR ROADS

This Section merits close study, because ZORC is recommending several types of changes. First, we recommend adding specific building and parking setbacks, to resolve administrative questions that have arisen over the years as to whether the setbacks specified in this section apply to buildings or also to parking. Second, we have recommended some reductions in the setbacks, such as reducing the setback from Route 7 in Sterling from the Fairfax County Line to Sterling Boulevard (from 100 to 50 feet), reducing the setback on Route 15 from 200 to 100 feet, reducing the setback on Route 28 from 200 to 100 feet, and eliminating the 100 foot setback on business Route 7 west of Route 9.

Third, this section now contains provisions for lot access from major roads and for setbacks from interchange ramps, discussed above.

SECTION 5-1100 OFF STREET PARKING AND LOADING

Staff recommended, and the ZORC conducted, a detailed review of the entire parking section. However, the ZORC did not see a need to change the fundamental approach to parking in the zoning ordinance. We do recommend that credit toward required parking for residential dwellings be allowed for on street parking under certain circumstances. For Single family detached units an increase in the number of required parking spaces is recommended (from 2.5 to 3.0) but with tandem parking allowed. For townhouses, increase the parking from 2.5 to 3.0, but up to .5 spaces per townhouse can be obtained through off street parking, and tandem parking is permitted.

The effect of this, we hope, will be to increase the overall amount of parking in townhouse neighborhoods, and to stimulate more on street parking for visitors.

SECTION 5-1400 BUFFERING AND SCREENING

At the request of Staff and based on extensive public input, ZORC conducted a detailed review of the transitional buffering and screening regulations of 5-1400. Substantive changes include:

- Recommendation of a revised matrix of uses which is designed to reduce the amount of landscaping between like uses.
- Provide that where property fronts on an existing or planned four lane road, the front yard buffering, landscaping and tree planting be based on a uniform Type 3 buffer yard, rather than measured based on the use across the street.
- Make it expressly clear that proffers or special exception conditions apply in lieu of the Section 5-1400 standards, where the two conflict.

- Add a provision that the Zoning Administrator can waive or eliminate landscaping requirements where necessary to meet U.S. Government requirements for homeland security, or for other security purposes for public uses, such as schools.
- Eliminate requirements for parking lot curb and gutter where necessary to accommodate "low impact design."

ARTICLE 6 DEVELOPMENT PROCESS AND ADMINISTRATION

Minor changes were made to several sections of Article 6, including the following:

- Revise Section 6-406 to require that disclosure of development plans include not only a copy of the Comprehensive Plan but a copy of the Countywide Transportation Plan for review by purchasers of new homes.
- Revised the site plan requirements of 6-701 to make it clear that site plans are not required for Ag support uses in rural districts, if the proposed use does not involve access by the public as a part of such use.
- Revision to the definition of when appeals to the BZA may be taken, in 6-1702, to make the zoning ordinance provision match state law.
- Add a provision in 6-1910 (Historic Districts) to require that any contract for the purchase and sale of property in a Historic District include a disclosure to this effect and a disclosure that changes to the property may require the approval of an Historic District Review Committee.

ARTICLE 7 AFFORDABLE DWELLING UNITS.

Implement minor revisions to standards such as height and setback, to be consistent with changes made in the corresponding underlying district regulations. In addition, the ZORC made recommendations intended to clarify that ADU's are not required in the R-1 and CR-1 Zoning Districts.

ARTICLE 8 DEFINITIONS

The ZORC did not go through each and every definition in this section, but rather reviewed the definitions selectively and made changes that were appropriate in light of recommendations elsewhere in the Ordinance. Some highlights:

- Revise the definition of Church, synagogue, temple or mosque to make it clear that certain associated uses such as counseling programs, private school, summer camps, child and adult day care facilities are a part of the place of worship use.
- Expand the allowed size of accessory dwelling units from 1500 to 2500 square feet.
- Revise the definition of "lot coverage" to make it clear that structured parking, above or below grade, does not count against lot coverage requirements, in order to provide an incentive to build structured parking.

- Expanded definition of "Outdoor storage, vehicles, to include various types of recreational equipment.
- Revise the definition of "Tenant Dwelling" to delete the requirement that the tenant has to derive all or part of their income from labor performed on the farm.
- Revise the definition of "Sign" to resolve the long-standing controversy over what portion of a landscaping feature constitutes a sign.

CONCLUSION

It should be remembered that although the Zoning Ordinance Review Committee spent the better part of a year reviewing the Zoning Ordinance to produce this Report, the scope of our work is limited. ZORC was assigned the task of reviewing a large number of issues identified by the staff, gathering input from the public, both in writing and public testimony. We were not charged with a general rewrite of the Zoning Ordinance or of any provision thereof.

The ZORC has endeavored to address in detail the various recommendations that were received from staff and the public. Although one can never expressly address every comment, we believe that the many persons who commented, will agree that we have addressed a high percentage of the comments through substantive revisions to the ordinance. To the extent we have overlooked any comments or recommendations made by staff at the outset of our work, we note that we lost all staff support (other than the invaluable Michael Currie) in mid-March, 2005 and have not had the benefit of any staff input or assistance since that time.

The Zoning Ordinance Review Committee respectfully recommends these revisions to the Loudoun County Board of Supervisors.

LOUDOUN COUNTY ZONING ORDINANCE REVIEW COMMITTEE

By: 
Robert M. Gordon, Chairman

By: 
Pat Quante, Vice-Chairman